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HOANG, SON T				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/557,197

Applicant(s)

YAMAMICHI ET AL.

Examiner

SON T. HOANG

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 66-86 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 79-83 and 86 is/are rejected.
- 7) ☒ Claim(s) 66-78, 84 and 85 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 26, 2008 has been entered.

Response to Amendment

2. **Claims 1-65** had been previously canceled.
Claims 66-75, 78-79, and 82-85 have been amended.
Claims 86 has been added.
Claims 66-86 are pending in this instant Office action.

Response to Arguments

3. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection presented herein.

Applicant argues towards **claim 79** regarding the fact that Arisaka does not disclose a rental information that shows whether or not the content is a rental content, and the presentation information is generated using the content identifier and the rental information.

The Examiner concurs to the above remark. However, it is noted that Yuasa et al. (*Pub. No. US 2002/0138379, filed on March 29, 2001; hereinafter Yuasa*) cures the deficiencies of Arisaka.

Accordingly, Yuasa discloses a rental information that shows whether or not the content is a rental content (*information contents with utilization condition information are recorded in the recording medium 4 so that the user Hj can rent its information contents. The user Hj reproduces information contents during the lease period any time, so that the information contents are provided for audio or visual utilization, [0065]*), and the presentation information is generated using the content identifier and the rental information (*in the control means, the lease expiration and current date and time information are compared with each other by utilizing a calendar function. In the case where the return date and time and the current date and time are coincident with each other as a result of this comparison, a time limit management is provides such that the information contents stored in the recording medium 4 are automatically erased, [0066]*).

It would have been obvious to an ordinary person skilled in the art at the time of the invention was made to incorporate the teachings of Yuasa with the teachings of Arisaka for the purpose of managing lease of arbitrary information contents to be distributed from an information lease service provider to a user ([0010] of Yuasa).

In view of the above, the Examiner contends that all limitations as recited in the claims have been addressed in this Action. Hence, Applicant's arguments do not distinguish over the claimed invention over the prior arts of record.

For the above reasons, the Examiner believes the rejection of this instant Office action is proper.

Claim Objections

4. **Claims 72, 82, and 84-86** are objected to because of having informalities within the claims.

Regarding **claims 72, and 82**, the first letter of the first word in each claim is not capitalized. Appropriate correction is required.

Regarding **claim 84**, it recites an "*update step*" on line 12. Applicant is suggested to change from "*update step*" to "*updating step*".

Regarding **claim 85**, it recites a "*a received step*" on line 13. Applicant is suggested to change from "*received step*" to "*receiving step*". Further, it recites an "*update step*" on line 13. Applicant is suggested to change from "*update step*" to "*updating step*".

Regarding **claim 86**, it recites a "*play back content*" on line 6. Applicant is suggested to change from "*play back content*" to "*playback content*".

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. **Claims 66-86** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 66-67, 79, and 84-86 recites in each claim an "*information presentation system*" including multiple devices, i.e. a playback device, a management device, a terminal device. It is not clear whether each of said devices in this claimed system is equipped with at least a processor and a memory, wherein the memory stores thereon a computer program, and the at least one processor operates according to this computer program. Applicant is suggested to include at least a processor and a memory in each of said devices, and explain how a processor and a memory can be utilized in each of said devices in the claimed "*information presentation system*".

Claims 68-78, and 80-83 are also rejected under 35 U.S.C. 112, second paragraph, because of their dependencies on **claims 67, and 79** respectively.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. **Claims 66-86** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matters.

Claims 66-67, 79, and 84-86 recites in each claim an "*information presentation system*" including multiple devices, i.e. a playback device, a management device, a terminal device. It is not clear whether each of said devices in this claimed system is equipped with at least a processor and a memory, wherein the memory stores thereon a computer program, and the at least one processor operates according to this computer program. Applicant is suggested to include at least a processor and a memory in each

of said devices, and explain how a processor and a memory can be utilized in each of said devices in the claimed "*information presentation system*".

Claims 68-78, and **80-83** are also rejected under 35 U.S.C. 101 because of their dependencies on **claims 67**, and **79** respectively.

The claims above lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 U.S.C. 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material *per se*.

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." Both types of "descriptive material" are nonstatutory when claimed as descriptive material *per se*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)

Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because

"[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer.")

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. **Claims 79-80, 83, and 86** are rejected under 35 U.S.C. 103(a) as being unpatentable over Arisaka et al. (*Pub. No. US 2002/0165987, filed on April 9, 2002; hereinafter Arisaka*) in view of Yuasa et al. (*Pub. No. US 2002/0138379, filed on March 29, 2001; hereinafter Yuasa*).

Regarding **claim 79**, Arisaka clearly shows and discloses a terminal device (*playback terminal 1 of Figure 2*) included in an information presentation system together with a playback device (*playback terminal n of Figure 2*) and a management

device (*playback data management device 210*), the terminal device being a different entity from the playback device (*Figure 2 shows that each playback terminal is corresponding to a different location, hence each of the terminal player is a different entity from another, [Abstract]*),

and the terminal device comprising:

an input-receiving unit (*Figure 4*) operable to receive an input from an external source (*The playback terminal device 220 uses the communication line 240 to receive from the playback data management device 210 the playback start information and, if the terminal type was sent at step 103, the converted content obtained at step 108, [0048]*);

a presentation-information acquiring unit (*Figure 4*) operable to acquire, according to a received input from the management device storing therein (i) a content identifier that identifies a content having been played back by the playback device, and presentation information (*Using the playback start information obtained at step 111 as well as the converted content if the terminal type was sent at step 103 or the content if no terminal type was sent, the playback terminal device 220 generates playback information. This playback information includes digitized information prompting the user for playback-related operations and information to be provided to the user to allow playback of the content or converted content based on the playback start information, [0049]*); and

a presentation unit (*Figure 4*) operable to display the acquired presentation information (*The playback terminal device 220 provides the user with the playback information generated at step 112, [0050]*).

Arisaka does not disclose a rental information that shows whether or not the content is a rental content, and the presentation information is generated using the content identifier and the rental information.

However, Yuasa discloses a rental information that shows whether or not the content is a rental content (*information contents with utilization condition information are recorded in the recording medium 4 so that the user Hj can rent its information contents. The user Hj reproduces information contents during the lease period any time, so that the information contents are provided for audio or visual utilization, [0065]*), and the presentation information is generated using the content identifier and the rental information (*in the control means, the lease expiration and current date and time information are compared with each other by utilizing a calendar function. In the case where the return date and time and the current date and time are coincident with each other as a result of this comparison, a time limit management is provides such that the information contents stored in the recording medium 4 are automatically erased, [0066]*).

It would have been obvious to an ordinary person skilled in the art at the time of the invention was made to incorporate the teachings of Yuasa with the teachings of

Arisaka for the purpose of managing lease of arbitrary information contents to be distributed from an information lease service provider to a user ([0010] of Yuasa).

Regarding **claim 80**, Arisaka further discloses:

an identifier-acquiring unit operable to acquire a particular content identifier that identifies a particular content (*The terminal receives user identification information of a user and digital content identification information played back by the user, and the user identification information and content identification and content types capable of being played back by the terminal are sent to the data management device, [0007]*), wherein said presentation-information acquiring unit requests and acquires, from the management device, the presentation information indicating whether the acquired particular content identifier is stored in the management device (*The playback terminal device 220 uses the communication line 240 to send the playback data management device 210 the individual identifier, the content identifier, and the playback continuation information so that the individual playback action history can be updated, [0055]*).

Regarding **claim 83**, Arisaka further discloses:

the management device stores user identifiers identifying a plurality of users in association with content identifiers identifying content having been played back by the users (*For each user, a server manages a personal playback action history, e.g., which content was played back up to which point. If playback is interrupted, playback continuation information for the content at that point in time is sent from the playback*

terminal device to the server and stored in the personal playback action history, [Abstract]], and

said presentation-information acquiring unit transmits a particular user identifier that identifies a particular user to the management device, and acquires the presentation information generated using a content identifier associated with the particular user identifier (*The playback terminal device 220 uses the communication line 240 to send the playback data management device 210 the individual identifier, the content identifier, and the playback continuation information so that the individual playback action history can be updated, [0055]*).

Regarding **claim 86**, Arisaka clearly shows and discloses a playback device (*playback terminal n of Figure 2*) that makes up an information presentation system together with a terminal device (*playback terminal 1 of Figure 2*) and a management device *playback data management device 210*), the playback device being a different entity from the terminal device (*Figure 2 shows that each playback terminal is corresponding to a different location, hence each of the terminal player is a different entity from another, [Abstract]*), and the playback device comprising:

a playback unit operable to play back a content recorded in a recording medium (*The playback terminal device 220 receives an individual identifier and content identifier from the user or the portable storage medium 230. The playback terminal device 220 provides the user with content and responds to playback operations, [0029]*);

an acquiring unit operable, when the content is played back, to acquire, from the recording medium (i) a content identifier that identifies the play back content (*The playback terminal device 220 receives an individual identifier and content identifier from the user or the portable storage medium 230. The playback terminal device 220 provides the user with content and responds to playback operations, [0033]*); and

a transmission unit operable to transmit, to the management device, the acquired content identifier (*the playback terminal device sends the playback data management device terminal type information indicating the digital content playback capabilities of the device, the individual identifier, and the content identifier. Using this data, the playback data management device generates playback start information, indicating whether playback of the digital content is to start at the beginning or at an intermediate point, and content converted to suit the terminal type, [0034]*).

Arisaka does not disclose a rental information that shows whether or not the content is a rental content, and sending the rental information to a management device.

However, Yuasa discloses a rental information that shows whether or not the content is a rental content (*information contents with utilization condition information are recorded in the recording medium 4 so that the user Hj can rent its information contents. The user Hj reproduces information contents during the lease period any time, so that the information contents are provided for audio or visual utilization, [0065]*), and the presentation information is generated using the content identifier and the rental information (*in the control means, the lease expiration and current date and time*

information are compared with each other by utilizing a calendar function. In the case where the return date and time and the current date and time are coincident with each other as a result of this comparison, a time limit management is provides such that the information contents stored in the recording medium 4 are automatically erased, [0066]], and sending the rental information to a management device (when the lease period has expired, processing goes to the step B6 at which the information contents are managed in the information processing apparatus 3 so as to be automatically erased based on utilization condition information, [0066]).

It would have been obvious to an ordinary person skilled in the art at the time of the invention was made to incorporate the teachings of Yuasa with the teachings of Arisaka for the purpose of managing lease of arbitrary information contents to be distributed from an information lease service provider to a user ([0010] of Yuasa).

12. **Claims 81-82** are rejected under 35 U.S.C. 103(a) as being unpatentable over Arisaka et al. (Pub. No. US 2002/0165987, filed on April 9, 2002; hereinafter Arisaka) in view of in view of Yuasa et al. (Pub. No. US 2002/0138379, filed on March 29, 2001; hereinafter Yuasa), and further in view of Milton (Pub. No. US 2002/0059120, published on May 16, 2002).

Regarding **claim 81**, Arisaka further discloses:

said input-receiving unit further receives input of a plurality of content identifiers (The playback data management device 210 receives content identifiers, playback continuation information, and terminal types (terminals are set up with information

indicating content types that can be displayed by the terminals or content types that users would like to play back) from the playback terminal device 220 via the communication line 240. The playback data management device 210 sends playback start information and converted content to the playback terminal device 220, [0030]).

Arisaka, as modified by Yuasa, does not disclose said presentation-information acquiring unit further requests and acquires the presentation information indicating, for each of the content identifiers, whether the content identifier is stored in the management device, and said presentation unit further displays the presentation information in which content identifiers stored in the management device are shown in a distinguishable form from content identifiers not stored in the management device.

However, Milton discloses:

said presentation-information acquiring unit further requests and acquires the presentation information indicating, for each of the content identifiers, whether the content identifier is stored in the management device (*the content handle serves to describe the location as to where the virtual inventory units will be sent to be handled and rerouted. For example, the content handle is read by the VCH 150 to determine the location of the media content to be accessed in the case of a "content access request", [0042]), and*

said presentation unit further displays the presentation information in which content identifiers stored in the management device are shown in a distinguishable form from content identifiers not stored in the management device (*AVIG accepts data*

through its API (Application Program Interface) as linked to an SQL program which queries and returns relevant information from a Content Doctrine, where the Content Doctrine is located in a VIADMIN node's database. Second, the AVIG interacts with the VIADMIN to retrieve, insert and encrypt an available virtual inventory unit number 530 to complete the creation of a Virtual Inventory Unit, [0060]).

It would have been obvious to an ordinary person skilled in the art at the time of the invention was made to incorporate the teachings of Milton, as modified by Yuasa, with the teachings of Arisaka for the purpose of facilitating access by the consumer owner of media contents to a repository or virtual inventory of media contents via one or more web enabled devices and at different locations without having to download, store, or carry said media contents ([0002] of Milton).

Regarding **claim 82**, Milton further discloses:

said input-receiving unit receives an input of a particular one of a plurality of categories under which attributes of contents are grouped (*Media Content Administrators 160 has an AVIG that produces Virtual Inventory Units according to the classes and their attributes. The Media Content Administrator may also define and create new proprietary classes that are not included in a default specification of the overall system so to further automate the process of creating virtual inventory on the fly. Inventory Class rules will be stored in configuration files in a database located at the Content Administrators node, [0053]),*

said presentation-information acquiring unit requests the presentation information by transmitting the particular category to the management device (*the content handle 510 is a universally recognized code that is assigned by a "virtual media registry" (VMR) to uniquely represent a particular media content, e.g., a particular CD of a artist, a particular video or movie and so on, [0042]*),

the management device stores a plurality of categories indicating a plurality for attributes for a plurality of content in association with content identifiers respectively identifying the content (*the "Hollow" inventory class defines a class of virtual inventory of media contents that lacks general information such as track number, track name, and so on, [0054]. The "Evaluation" inventory class defines a class of virtual inventory of media contents that will time out after a period of time as specified, [0055]. The "Finite" inventory class defines a class of virtual inventory of media contents that is classified as having a finite distribution parameter, thereby limiting the number of virtual inventory units that can be generated, [0056]. The "Infinite" inventory class defines a class of virtual inventory of media contents that is classified as having an infinite distribution parameter, thereby setting no limit as to the number of virtual inventory units that can be generated, [0057]*), and

said presentation unit presents the presentation information which is generated using attribute information corresponding to the content identifier that identifies the content having been played back by the playback device and belonging to the particular one of the categories (*Figure 3 shows the user request a media content from a virtual inventory of media content and play selected media content*).

Allowable Subject Matter

13. **Claims 66-78**, and **84-85** will be considered for allowance if all claims' objections, and claims' rejections under 35 U.S.C. 101, and 112, 2nd paragraph, as set forth in this Office action are overcome.

Reasons for Allowance

14. The following is an examiner's statement of reasons for allowance for **independent claims 66-67**, and **84-85**:

i) The prior arts of record fails to teach the updating steps of
"perform an update on the stored rental information so as to show that the content is not the rental content when (s) the received new content identifier and the stored content identifier identify a same content, and (b) the stored rental information shows that the content is the rental content, and the received new rental information shows that the new content is not the rental content,
perform no update on the stored rental information regardless of whether or not the received new rental information shows that the new content is the rental content when (a) the received new content identifier and the stored content identifier identify the same content, and (b) the stored rental information shows that the content is not the rental content".

Claims 68-78 are also allowable based on their dependencies on **claim 67**.

ii) Arisaka et al. (*Pub. No. US 2002/0165987*) teaches a digital content playback method in a digital content playback system including a terminal allowing a

user to play back digital content even when the user is at a different location or a different playback terminal.

iii) Yuasa et al. (*Pub. No. US 2002/0138379*) teaches managing lease of information contents distributed from an information lease service provider to a user, wherein a contract concerning lease of information contents is made in advance between the information lease service provider and the user, utilization condition information is added to information contents to be distributed to the user based on the contract.

iv) Milton (*Pub. No. US 2002/0059120*) teaches providing a virtual inventory of goods, e.g., media contents, where the goods can be purchased or conveyed, registered, transferred and loaned, while stored and controlled remotely (not on consumer devices), and accessed locally, on demand, from a plurality of web enabled devices and web enabled locations via a distributed network.

Conclusion

15. These following prior arts made of record and not relied upon are considered pertinent to Applicant's disclosure:

Lindsey (*Pat. No. US 6,384,861*) teaches image capture device having cursor generating and control apparatus.

Heist (*Pat. No. US 5,832,171*) teaches system for creating video of an event with a synchronized transcript.

The Examiner requests, in response to this Office action, support(s) must be shown for language added to any original claims on amendment and any new claims. That is, indicate support for newly added claim language by specifically pointing to page(s) and line no(s) in the specification and/or drawing figure(s). This will assist the Examiner in prosecuting the application.

When responding to this Office action, Applicant is advised to clearly point out the patentable novelty which he or she thinks the claims present, in view of the state of the art disclosed by the references cited or the objections made. He or she must also show how the amendments avoid such references or objections See 37 CFR 1.111(c).

Contact Information

16. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Son T. Hoang whose telephone number is (571) 270-1752. The Examiner can normally be reached on Monday - Friday (7:30 AM – 5:00 PM).

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Christian Chace can be reached on (571) 272-4190. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Son T Hoang/
Examiner, Art Unit 2165
November 18, 2008

/S. P./
Primary Examiner, Art Unit 2164
/John R. Cottingham/
Supervisory Patent Examiner, Art Unit 2167